



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,293	06/10/2005	Johannes Hakansson	9342-57	1566
20792	7590	06/11/2008		
MYERS BIGEL, SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627			EXAMINER HENN, TIMOTHY J	
			ART UNIT 2622	PAPER NUMBER
			MAIL DATE 06/11/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,293

Applicant(s)

HAKANSSON, JOHANNES

Examiner

Timothy J. Henn

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because Figure 3 does not include any text labels for the shown blocks. Such text labels make the Figure easier to read and understand without requiring the reader to look up the corresponding numbers for each block. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 16 and 18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

[claim 16]

Claim 16 claims a computer program per se but does not define the computer program as being stored on a computer readable medium which would allow for the functional aspects of the computer program to be realized. While claim 16 does claim a cellular phone comprising a computer readable medium, there is no limitation describing the computer program as being stored on the computer readable medium. Therefore, the computer program is functional descriptive material per se and thus non-statutory, see MPEP §2106.01.

[claim 17]

Claim 17 claims a data signal embedded in a carrier wave. However, a carrier wave is not a process, machine, manufacture or composition of matter and therefore is non-statutory subject matter.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5, 7-12, 14-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (US 7,038,716) in view of Nakami (US 2003/0071903).

[claim 8]

Regarding claim 8, Klein discloses a cellular phone (Figure 2) including an image sensor, a memory device and a transmitting unit (Figure 5). Klein further discloses that the memory can store a plurality of "applications" (c. 8, ll. 59-60), but does not explicitly disclose an image effects store and image editor as claimed.

Nakami discloses a system for applying image effects to captured images in which a plurality of image effects are stored in an image effects store (Figures 3 and 5) wherein an image editor is used to generate a new effect for application on digital images based on entries of a user and allowing storing of the effects in an effects file (e.g. a PIM) in the image effects store in a defined standardized image editor independent effects format (Figure 5 and 7; Paragraphs 0062, 0077-0078; note that the effect is stored in a predetermined format which is useable by another machine to process the image data, i.e. the format is standardized between the camera and the printer). Therefore, it would be obvious to include an image effects store and image editor as described by Nakami so that the images captured by the phone of Klein can be processed according to the users wishes when transmitted to a printing device.

[claim 9]

Regarding claim 9, while Nakami discloses a standardized format, Nakami does not explicitly disclose the use of XML. Official Notice is taken that the use of XML as a file format to define options such as the processing options of Nakami is well known in

the art as a easily readable and configurable file format. Therefore, it would be obvious to use an XML file format for the effects files of Nakami since XML is easily readable and configurable.

[claim 10]

Regarding claim 10, Nakami discloses storing a file with parameter settings made by the user (Paragraphs 0083-0088).

[claim 11]

Regarding claim 11, Klein discloses a wireless transmitting unit (Figure 5, Radio).

[claim 12]

Regarding claim 12, Nakami discloses a matrix of calculations to be performed on an image (Figure 5).

[claim 14]

Regarding claim 14, Nakami discloses an iamge editor which is arranged to retrieve stored effects files from the image effect store and apply a new effect to the file (e.g. Paragraphs 0089-0096).

[claims 1-5 and 7]

Claims 1-5 and 7 are method claims corresponding to apparatus claims 8-12 and 14. Therefore, claims 1-5 and 7 are analyzed and rejected as previously discussed with respect to claims 8-12 and 14.

[claim 15]

Regarding claim 15, see claim 8 above.

[claim 16]

Regarding claim 16, see claims 1 and 8 and further note that the method described by Nakami may be implemented in a computer program stored on a computer readable medium (Paragraphs 0025 and 0026).

[claim 18]

Regarding claim 18, see claim 15 and note that Nakami discloses storing effects information as claimed in a storage medium.

6. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (US 7,038,716) in view of Nakami (US 2003/0071903) in view of Moghadam et al. (US 5,913,088).

[claim 13]

Regarding claim 13, Klein in view of Nakami discloses creating effects to be applied to images, but does not disclose applying the effect prior to saving. Moghadam discloses a similar system in which an image effect to be applied to an image is previewed by the user (c. 3, ll. 21-43) prior to associating the effect with the image. Therefore, it would be obvious to create a preview of the effect of Klein in view of Nakami prior to storing as taught by Moghadam so that the user is able to preview the results of the effect.

[claim 6]

Claim 6 is a method claim corresponding to apparatus claim 13. Therefore, claim 6 is analyzed and rejected as previously discussed with respect to claim 13.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

i.	Wasula et al.	US 2002/0054224
ii.	Miyagi et al.	US 2003/0146985
iii.	Kubo	US 7,151,564
iv.	Haeberli	US 6,941,276
v.	Sato	US 6,650,365

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Henn whose telephone number is (571)272-7310. The examiner can normally be reached on M-F 11-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on (571) 272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy J Henn/
Primary Examiner, Art Unit 2622